

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	July 16, 2015
Time of Incident:	7:20 pm
Location of Incident:	[REDACTED]
Date of COPA Notification:	July 16, 2015
Time of COPA Notification:	8:15 pm

II. INVOLVED PARTIES

Involved Officer #1:	[REDACTED], star # [REDACTED], employee ID# [REDACTED], Date of Appointment: [REDACTED], 1994, Police Officer, [REDACTED] District, DOB: [REDACTED], 1969, male, white.
Involved Individual #1:	[REDACTED], DOB: [REDACTED], 1967, female, black

III. ALLEGATIONS

Officer	Allegation	Findings
Officer [REDACTED]	<ol style="list-style-type: none"> 1. It is alleged that on July 16, 2015, at approximately 7:20 p.m., at [REDACTED] he 1) pointed his firearm at the complainant, [REDACTED] without justification; and 2. Made comments to the effect that the persons doing the killings on the street are from [REDACTED] neighborhood and that she should stop with the "racist bullshit" she was stating. 	<p>Not Sustained</p> <p>Not Sustained</p>

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

IV. APPLICABLE RULES AND LAWS

Rules

- 1.
- 2.

General Orders

- 1.
- 2.

Special Orders

- 1.
- 2.

V. INVESTIGATION²

On July 16, 2015, at approximately 8:15 p.m., the Reporting Party/Victim, [REDACTED], telephoned IPRA and Intake Aide [REDACTED] registered her complaint.⁴ [REDACTED] alleged that on the same date, at approximately 7:20 p.m., at [REDACTED], during a traffic stop, the officer with star number [REDACTED] pointed his firearm at her without justification and commented to her that persons doing the killings on the street are from her neighborhood and that she should stop with the "racist bullshit" she was stating.

[REDACTED] came to IPRA on July 17, 2015, and provided her recorded interview.⁵ [REDACTED] said that at the time of the incident, she was driving her daughter's vehicle and made an illegal left turn into a gas station so she could use the restroom. As she was about to exit her vehicle, a marked vehicle with flashing lights pulled up behind her. An officer inside the marked vehicle used his loudspeaker to tell [REDACTED] not to exit. The driver officer approached her vehicle and asked for her driver's license and proof of insurance. The passenger officer pointed his weapon at her.

[REDACTED] continued that she was allowed to use the restroom, and when she returned to her vehicle, she was told why she had been stopped. The passenger officer gave [REDACTED] two traffic citations. [REDACTED] asked the passenger officer why he pointed his gun at her and commented that instead of being out issuing her traffic tickets, he and his partner should be trying

²COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA's ongoing efforts to increase case closure capacity, certain cases opened under IPRA are summarized more succinctly in a Modified Summary Report of Investigation, pursuant to COPA Guideline Modified Summary Report of Investigation Template and Approvals, effective February 13, 2019.

⁴[REDACTED] complaint was originally numbered "1076165," but it was closed administratively because of a glitch in the CLEAR system. It was re-numbered "1083062."

⁵[REDACTED] provided additional information over the phone on February 25, and March 25, 2019. Atts. 23, 26.

to catch some of the people doing the killings on the street. The passenger officer told her the police know where all those people are, and he said they are from her neighborhood. [REDACTED] asked him what he meant by that, but he did not answer her. The passenger officer then told [REDACTED] to stop with all the "racist bullshit."

[REDACTED] said that, before she returned to her vehicle, she phoned her aunt, [REDACTED] who lived nearby, and asked her to come to the gas station because she had never had an encounter with the police, and she did not feel safe. [REDACTED] arrived along with her two teenage grandsons, [REDACTED] and [REDACTED]. [REDACTED] said [REDACTED] and the grandsons were standing several feet away during her conversation with the passenger officer and they likely were in earshot of the officer's comments. [REDACTED] said [REDACTED] would have contact information for her grandsons, who lived in [REDACTED].⁶

Attempts to interview [REDACTED] and obtain contact information for her grandsons were not successful. One of the grandsons, [REDACTED] died in August 2015 as a result of a car accident in [REDACTED].⁷

[REDACTED] traffic citations were for disobeying a red light and making an illegal turn. The star number for the [REDACTED] District officer who issued the citations was "[REDACTED]".⁸

The Attendance and Assignment Record for the [REDACTED] Watch, [REDACTED] District, for July 16, 2015, indicated that the officer who had star number [REDACTED] was [REDACTED], who was working Beat [REDACTED] with a partner, [REDACTED]. Beat [REDACTED] is a squadrol assignment.⁹

The vehicle record for the squadrol assigned to Officers [REDACTED] and [REDACTED] reflected that it was not equipped with an in-car camera.¹⁰

In his statement to COPA on April 11, 2019, Officer [REDACTED] who said his previous star number was "[REDACTED]," denied the allegations placed against him.¹¹ He objected to the delay in the CR number investigation because he believed it could affect his memory of the incident. He said he and Officer [REDACTED], who were in full uniform, stopped [REDACTED] because she turned illegally to the east on [REDACTED]. The officers activated their emergency equipment to conduct a traffic stop of [REDACTED] car, which was directly in front of theirs. [REDACTED] did not pull over and drove her car, a [REDACTED], approximately one-third of a block before pulling onto a [REDACTED] gas station property "real fast" and parking. The squadrol was also driven onto the gas station property.

Officer [REDACTED] said he and his partner exited their squadrol, and Officer [REDACTED] observed [REDACTED] rummaging around between her vehicle's front seats. Officer [REDACTED] drew his weapon and pointed it at the [REDACTED] as he stood at the front of the squadrol's front passenger-side fender. Soon, the [REDACTED] driver door was flung open, and [REDACTED] jumped out

⁶ Atts. 12, 13, 43

⁷ Att. 32

⁸ Att. 11

⁹ Att. 15

¹⁰ Atts. 6, 7, 18, 24

¹¹ Att. 44

of the vehicle. Officer [REDACTED] did not recall if Officer [REDACTED] had his weapon drawn. Officer [REDACTED] said that after [REDACTED] exited the [REDACTED], [REDACTED] told him she had to go "pee." Officer [REDACTED] lowered his gun then, concluding [REDACTED] was not a threat because she did not have anything in her hands. [REDACTED] entered the gas station, but she did not go in (into the bathroom). [REDACTED] stood by the door and then came back out. Officer [REDACTED] had her sit in her vehicle. He asked for her driver's license and proof of insurance.

Officer [REDACTED] added that he believed he told [REDACTED] she should not "jump out" on the police as she did. [REDACTED] was mad about having been pulled over. Officer [REDACTED] said she made a comment that he should be doing "other things" like looking for shooters and killers instead of bothering her. Officer [REDACTED] said [REDACTED] told him he pulled her over because she is black, but he told her he pulled her over because of her traffic violation. [REDACTED] then made "racial remarks" about having been pulled over because she is black and that Officer [REDACTED] should be looking in neighborhoods where the killers are. In response, Officer [REDACTED] said to her that if people cooperated with the police, maybe "We'd be able to solve those cases." He said that had nothing to do with why he pulled her over.

Officer [REDACTED] said [REDACTED] kept making the same kind of remarks, and he told her to "knock it off" with the "nonsense, the racial nonsense." When asked by COPA if he used the terms "racial bullshit," he said he used the term "racial nonsense." When asked how he could be sure he did not say "racist bullshit," given that the passage of time could have affected his memory of the incident, Officer [REDACTED] replied, "I don't know. I can't. Yeah, I could have said it. It's not really a bad word. I didn't call her a name or anything."

Officer [REDACTED] denied saying that the persons doing the killings on the street are in [REDACTED] neighborhood. Officer [REDACTED] was on the other side of the [REDACTED] during this verbal exchange. Officer [REDACTED] did not remember if [REDACTED] made a phone call during the incident. He did not notice any other male or female walking onto the scene who obviously knew [REDACTED]. After Officer [REDACTED] gave [REDACTED] the citations, he and his partner left the scene.

Officer [REDACTED] believed he was justified in pointing his weapon at the [REDACTED]. He pointed his weapon because he did not know what [REDACTED] was doing or reaching for while she was in the car. He said it was possible that [REDACTED] was reaching for a weapon because that was how he was trained. Officer [REDACTED] thought there was a passenger in the [REDACTED], and he did not know what [REDACTED] and the possible passenger were doing, which could have included handing off a weapon. Officer [REDACTED] did not know a woman was the driver and did not know the driver's race. The [REDACTED] windows were not tinted. Officer [REDACTED] said he had patrolled the area for 4 ½ years and that a lot of shootings occurred on nearby I-57.

The Human Resources Division of the Police Department reported that Officer [REDACTED] has been on a leave of absence since May 7, 2017, and is considered "inactive." COPA obtained contact information for Officer [REDACTED] and interviewed him over the phone on June 11¹², 2019, while he was at his home in [REDACTED]. Officer [REDACTED] advised that he is confined to a wheelchair.

¹² Att. 45; during the interview, the date was incorrectly provided as June 12, 2019.

Officer [REDACTED] said he recalled the incident involving [REDACTED] in that he remembered [REDACTED] reaction to being stopped in her car. Officer [REDACTED] thought he drove the squadrol that day, but he was not certain. He was in uniform, but did not have a body-worn camera or an in-car camera. He thought the incident began with [REDACTED] running a stop sign at a four-way stop at [REDACTED]. He recalled that to avoid the officers' stopping her, [REDACTED] fled into the gas station. She did not follow any verbal direction. Officer [REDACTED] added that [REDACTED] was "extremely verbally abusive." She did not want to give up her license or proof of insurance initially, and she verbally berated Officer [REDACTED]. She used a lot of "expletives," swearing at Officer [REDACTED] excessively. Officer [REDACTED] did not remember any specific words [REDACTED] used, describing the words as very "offensive and very abusive." She claimed she had to go to the bathroom and needed cigarettes.

Officer [REDACTED] said he did not think he needed to draw his weapon during the incident. He did not recall whether Officer [REDACTED] drew his weapon. He said, "I don't think she was that big of a threat," referring to [REDACTED]. He recalled multiple citations being issued by Officer [REDACTED].

Officer [REDACTED] did not recall, even remotely, hearing [REDACTED] and Officer [REDACTED] discussing whether persons doing the killings on the street were in [REDACTED] neighborhood. He did not recall hearing Officer [REDACTED] telling [REDACTED] to stop with the "racist bullshit" that she was stating or that Officer [REDACTED] said anything "untoward or improper" to her. He recalled that [REDACTED] yelled that there were more important crimes than her traffic violation. She waved her arms and screamed. The incident lasted between 10 and 15 minutes.

Officer [REDACTED] did not have names of any possible civilian witnesses. He did not recall whether any of the civilians on the scene were related to [REDACTED]. He did not know of any video related to the incident. He did not discuss the incident with Officer [REDACTED] with whom he had not spoken "in quite a while."

VI. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy. See *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. See e.g., *People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

VII. ANALYSIS

The available evidence in this case consists of the accounts of the complainant, [REDACTED], and of Officers [REDACTED] and [REDACTED]. No video or uninvolved witness descriptions of the incident were available. [REDACTED] and the officers' accounts were roughly the same, differing, as expected, in the details.

On one hand, [REDACTED] admitted she made the illegal left turn, and she was apparently in a hurry to use the washroom. She said the police vehicle, its lights flashing, pulled up behind her after her vehicle was already stopped and she was about to get out. She alleged that Officer [REDACTED] pointed his weapon at her and made the remarks disparaging of her neighborhood.

Officer [REDACTED] described the illegal left turn, and he said he or his partner, Officer [REDACTED], turned on their emergency equipment and attempted to pull over [REDACTED] as she continued to drive a third of a block before stopping at the gas station. Officer [REDACTED] acknowledged pointing his gun at [REDACTED] vehicle, rather than at her, and said he did have a conversation with her about killers and racial remarks. However, he said he pointed his gun at [REDACTED] vehicle because of her continuing to drive away from the police vehicle while its emergency equipment was on and her rummaging around inside the vehicle before jumping out. He said he lowered his gun after seeing that [REDACTED] was not a threat. Officer [REDACTED] was inconsistent as to whether he told [REDACTED] to "knock off" the "racial nonsense" or the "racist bullshit." He denied saying that the killers were in [REDACTED] neighborhood.

Officer [REDACTED] did not recall if Officer [REDACTED] drew his weapon and had no memory of the discussion [REDACTED] described between her and Officer [REDACTED]. Officer [REDACTED] recalled [REDACTED] being "extremely verbally abusive" and having waved her arms and screamed during the incident. His account does not support the allegations against Officer [REDACTED] and if anything, supports Officer [REDACTED] in that Officer [REDACTED] did not recall hearing Officer [REDACTED] say anything "untoward or improper" to [REDACTED].

COPA finds that Officer [REDACTED] provided believable reasons for pointing his weapon at the car, given that [REDACTED] did not stop immediately after making the illegal turn and possibly

moved around inside the car before “jumping” out. Officer [REDACTED] also referenced the I-57 as a site for shootings. Depending on how quickly Officer [REDACTED] re-holstered his weapon, it is believable that [REDACTED] perceived his use of his weapon as “pointing” at her, rather than at her vehicle.

There is insufficient evidence to prove the allegations by a preponderance of the evidence, that is, the three accounts, because elements of them are contradictory. The finding should be “Not Sustained” for both allegations.

VIII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Findings
Officer [REDACTED] [REDACTED]	1. It is alleged that on July 16, 2015, at approximately 7:20 p.m., at [REDACTED], he 1) pointed his firearm at the complainant, [REDACTED], without justification; and	Not Sustained
	2. Made comments to the effect that the persons doing the killings on the street are from [REDACTED] neighborhood and that she should stop with the “racist bullshit” she was stating.	Not Sustained

Approved:

[REDACTED]

8-30-19

Angela Hearts-Glass
Deputy Chief Administrator – Chief Investigator

Date